



# House of Representatives

## **File No. 566**

General Assembly

February Session, 2012

**(Reprint of File No. 143)**

Substitute House Bill No. 5299  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
April 20, 2012

### **AN ACT CONCERNING THE DISPOSITION OF REMAINS OF MILITARY PERSONNEL.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. Section 45a-318 of the general statutes is repealed and the  
2       following is substituted in lieu thereof (*Effective from passage*):

3       (a) Any person eighteen years of age or older, and of sound mind,  
4       may execute in advance of such person's death a written document,  
5       subscribed by such person and attested by two witnesses, either: (1)  
6       Directing the disposition of such person's body upon the death of such  
7       person, which document may also designate an individual to have  
8       custody and control of such person's body and to act as agent to carry  
9       out such directions; or (2) if there are no directions for disposition,  
10      designating an individual to have custody and control of the  
11      disposition of such person's body upon the death of such person. Such  
12      disposition shall include, but not be limited to, cremation, incineration,  
13      disposition of cremains, burial, method of interment and cryogenic  
14      preservation. Any such document may designate an alternate to an  
15      individual designated under subdivision (1) or (2) of this subsection.

16 (b) No person may challenge a funeral director's decision to carry  
17 out the directions for disposition contained in a document executed for  
18 the purposes of subsection (a) or (f) of this section if the funeral  
19 director's decision and conduct in carrying out such directions for  
20 disposition in reliance on such document was reasonable and  
21 warranted under the circumstances.

22 (c) In the absence of a written designation of an individual pursuant  
23 to subsection (a) of this section, or in the event that an individual and  
24 any alternate designated pursuant to subsection (a) of this section  
25 decline to act or cannot be located within forty-eight hours after the  
26 time of death or the discovery of the body, the following individuals,  
27 in the priority listed, shall have the right to custody and control of the  
28 disposition of a person's body upon the death of such person, subject  
29 to any directions for disposition made by such person pursuant to  
30 subdivision (1) of subsection (a) of this section:

31 (1) The deceased person's spouse, unless such spouse abandoned  
32 the deceased person prior to the deceased person's death or has been  
33 adjudged incapable by a court of competent jurisdiction;

34 (2) The deceased person's surviving adult children;

35 (3) The deceased person's surviving parents;

36 (4) The deceased person's surviving siblings;

37 (5) Any adult person in the next degree of kinship in the order  
38 named by law to inherit the deceased person's estate, provided such  
39 adult person shall be of the third degree of kinship or higher;

40 (6) Such adult person as the Probate Court shall determine.

41 (d) A document executed by a person for the purposes of subsection  
42 (a) or (f) of this section shall revoke any document previously executed  
43 by such person for the purposes of said subsection or any prior  
44 cremation authorization or other authorization for the disposition of  
45 remains executed by such person. [and]

46 (e) A document executed by a person for the purposes of subsection  
47 (a) of this section may be in substantially the following form, but the  
48 use of such form shall not preclude the use of any other form:

49 DISPOSITION OF REMAINS AND  
50 APPOINTMENT OF AGENT

51 I, ..., of ..., being of sound mind, make known that upon my death  
52 my body shall be disposed of in the following manner:

53 (Insert desired disposition directions)

I appoint ..., having an address and telephone number of ..., to have custody and control of my body to act as my agent to carry out the disposition directions expressed in this document, and in the absence of disposition directions, to have custody and control of my body and to determine the disposition of my body. If ... shall decline to act or cannot be located within forty-eight hours of my death or the discovery of my body, then ..., having an address and telephone number of ..., shall act in that person's place and stead.

62 Executed at (insert location of execution), Connecticut on (insert  
63 date of execution).

64 .....

65 (Signature)

66 Signed in our presence by .... who, at the time of the execution of  
67 this document, appeared to be of sound mind and over eighteen years  
68 old.

69 .... of ....

70 ....

71 (Signature of witness)

72 .... of ....

73 ....

74 (Signature of witness)

75 (f) A DD Form 93, "Record of Emergency Data", executed by a  
76 member of the armed forces of the state or the United States shall be  
77 given the same legal effect as a document executed for the purposes of  
78 subsection (a) of this section.

79 ~~[(e)]~~ (g) The court of probate for the district of the domicile or  
80 residence of a deceased person shall have jurisdiction to hear and  
81 decide any issue regarding the custody, control or disposition of the  
82 deceased person's body, upon the petition of any individual  
83 designated by the deceased person pursuant to subsection (a) or (f) of  
84 this section, the individual entitled to custody and control under  
85 subsection (c) of this section if no designation is made pursuant to  
86 subsection (a) of this section, the first selectman, chief executive officer  
87 or director of health of the town in which the deceased person's body  
88 is being held, or the funeral director or any other person or institution  
89 holding the deceased person's body, and upon such notice to  
90 interested parties as the court shall determine.

91 ~~[(f)]~~ (h) This section shall not (1) apply to the disposition of the body  
92 of a deceased person under the provisions of sections 19a-270 and 54-  
93 102, (2) affect the powers and duties of the Chief Medical Examiner  
94 under the provisions of sections 19a-406 to 19a-408, inclusive, or (3)  
95 affect the making of anatomical gifts under the provisions of sections  
96 14-42 and 19a-289 to 19a-289v, inclusive.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

There is no fiscal impact associated with allowing federal form DD 93 to have the same legal authority as certain existing documents.

House Amendment "A" removes provisions related to the creation of commendation and achievement medals for state military services, and strikes costs of \$20,000 in FY 13 and \$5,000 in FY 14 related to designing and purchasing the medals.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

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**OLR Bill Analysis****sHB 5299 (as amended by House "A")\******AN ACT ESTABLISHING A COMMENDATION MEDAL, AN ACHIEVEMENT MEDAL AND THE ORDER OF PRECEDENCE FOR STATE MILITARY DECORATIONS AND AWARDS.*****SUMMARY:**

This bill gives a U.S. Department of Defense DD Form 93, "Record of Emergency Data," executed by a U.S. or state armed forces member, the same legal effect as a document authorized under existing law that directs the (1) disposition or (2) custody and control of the disposition of a signatory's body at death.

It also makes conforming changes.

By law, the state's armed forces are the (1) National Guard; (2) organized militia (i.e., the governor's guards, the State Guard, and other military forces the governor may designate as commander-in-chief); and (3) naval militia and marine corps branch of the naval militia, whenever organized (CGS § 27-2).

\*House Amendment "A" removes provisions creating state commendation and achievement medals for state service.

EFFECTIVE DATE: Upon passage

**COMMITTEE ACTION**

Select Committee on Veterans' Affairs

Joint Favorable Change of Reference

Yea 9 Nay 0 (03/08/2012)

## Public Safety and Security Committee

Joint Favorable

Yea 23 Nay 0 (03/15/2012)